Supreme Court of the United States,

OCTOBER TERM, 1900.

No. 575

GEORGE W. CROSSMAN, *et al.*, composing the firm of W. A. Crossman & Brother,
Appellants,

vs.

THE UNITED STATES,
Appellee.

Appeal from the Circuit Court of the United States for the Southern District of New York.

MOTION TO ADVANCE.

And now, December 24th, 1900, come Charles Curie and W. Wickham Smith, attorneys for the appellants above named, and move the Court to advance the above named case, to be heard at the present term at such time as may be convenient for the Court.

The case is a proceeding brought by the above-named appellants, importers in the City of New York, under and by virtue of Section 15 of the Customs Administrative Act of June 10, 1890 (26

U. S. Stat. at Large, 131), to review a decision of the Collector of the Port of New York, assessing duty under the provisions of the Tariff Act of July 24, 1897, on certain merchandise brought by the said appellants to the City of New York from Honolulu, in the Hawaiian Islands, on the 20th of April, 1900. The decision of the Collector was affirmed by the Board of U. S. General Appraisers, and a petition to review the decision of said Board was filed in the U. S. Circuit Court for the Southern District of New York by the importers, pursuant to the provisions of Section 15 of the Customs Administrative Act. The said Circuit Court affirmed the decision of the Board of U. S. General Appraisers, and allowed an appeal to this Court. The transcript of the record on such appeal was docketed in this Court on the 18th day of December, 1900, as No. 515

The contention of the importers, as set forth in their protest appearing in the record, is that the Hawaiian Islands are and were at the time of the bringing to New York of the merchandise above referred to a part of the territory of the United States, having been made so by a joint resolution of Congress, approved on the 7th of July, 1898 (30 U. S. Stat. at Large, 750), wherein it was provided that "the said Hawaiian Islands and their dependencies be, and they are hereby annexed as a part of the territory of the United States;" that having been thus made a part of the territory of the United States, merchandise brought from those islands to other parts of the territory of the United States, and specifically to the City of New York, were entitled to be brought in free of duty; that the provisions of the Tariff Act of July 24, 1897, do not apply to this merchandise because said act is, by its terms, Section 1, limited to "articles imported from for-

eign countries." It is further contended in said protest that so much of the said Joint Resolution of July 7th, 1898, as provided that "until legislation shall be enacted extending the United States' customs laws and regulations to the Hawaiian Islands, the existing customs relations of the Hawaiian Islands with the United States and other countries shall remain unchanged," was void as being in conflict with the provision of Subdivision 1, Section 8, Article 1 of the Constitution of the United States that "all duties, imposts and excises shall be uniform throughout the United States," and also with Subdivision 5, Section 9, Article 1 of the Constitution of the United States that "no tax or duty shall be laid on articles exported from any State."

The ground upon which this motion to advance is made is that certain cases, involving the general question of the status of Porto Rico and the Philippines as to taxation under the Constitution of the United States, have already been heard by the Court and are not yet decided; that certain other cases, involving the same general question, have been advanced by the Court and set down for argument on the 7th of January, 1901; and that a decision in the cases thus advanced will involve a ruling upon some, if not all of the questions raised by appellants in this case. While this case differs from the others that have been advanced in some of its aspects, they have necessarily certain points in common. While it is true that the joint resolution annexing the Hawaiian Islands in express terms made them a part of the territory of the United States, while there had been no legislation by Congress with reference to Porto Rico until April 30, 1900, and there has not yet been any legislation by Congress with reference to the status of the Philippine Islands, yet these cases all necessarily involve the question whether the pro-

visions of the Constitution imposing restrictions and limitations upon the power of Congress apply *ex proprio vigore* in the territory of the United States.

It has seemed to counsel for the appellants in this case that before passing on these questions it was desirable the Court should have before it, so far as possible, cases representing every phase of the controversy, and that appellants might properly ask to be heard before a decision is made by the Court which may determine their rights.

Notice of this application and of the grounds thereof has been served upon the Attorney-General.

Dated New York, December 24th, 1900.

CHARLES CURIE,
W. WICKHAM SMITH,
Counsel for Appellants.